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10/553,875	07/25/2006	Masayoshi Shiga	280142US0PCT	9368
22850	7590	02/04/2009		
OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314				
EXAMINER RIVIERE, HEIDI M				
ART UNIT		PAPER NUMBER		
3689				
NOTIFICATION DATE		DELIVERY MODE		
02/04/2009		ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary

Application No.

10/553,875

Applicant(s)

SHIGA, MASAYOSHI

Examiner

HEIDI RIVIERE

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 October 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SF/ICE)
Paper No(s)/Mail Date 1/19/2006
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 101

1. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

2. **Claims 1-4** are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

3. In order for a method to be considered a "process" under §101, a claimed process must either: (1) be tied to another statutory class (such as a particular apparatus) or (2) transform underlying subject matter (such as an article or materials). *Diamond v. Diehr*, 450 U.S. 175, 184 (1981); *Parker v. Flook*, 437 U.S. 584, 588 n.9 (1978); *Gottschalk v. Benson*, 409 U.S. 63, 70 (1972). If neither of these requirements is met by the claim, the method is not a patent eligible process under §101 and is non-statutory subject matter. With respect to claims 1-4, the claim language does not include the required tie or transformation and thus is directed to nonstatutory subject matter.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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5. **Claims 1, 5, and 6** are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
6. **Claim 1** state "having a rating subject such as a rating subject". This statement as written is confusing. Claim 1 also mentions "providing a fixed time period". However, there is no mention of what this time period is for and for how long it will be fixed.
7. **Claims 5 and 6** inappropriately invoke 35 USC section 112 paragraph 6. The claim limitations "means for having said subject input", "means for having said evaluator distribute" and "means for subjecting said response results" use the phrase "means for", but it is modified by some structure, material, or acts recited in the claim. It is unclear whether the recited structure, material, or acts are sufficient for performing the claimed function which would precluded application of 35 USC 112, sixth paragraph.

If applicant wishes to have the claim limitation treated under 35 USC 112, sixth paragraph, applicant is required to amend the claim so that the phrase "means for" is clearly not modified by sufficient structure, material, or acts for performing the claimed function.

If applicant does not wish to have to claim limitation treated under 35 USC 112, sixth paragraph, applicant is required to amend the claim so that it will clearly not be a means (or step) plus function limitation (e.g., deleting the phrase "means for" or "step for")

Claim Rejections - 35 USC § 102

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

9. **Claims 1-6** are rejected under 35 U.S.C. 102(b) as being anticipated by **Allen et al. (US 2003/0217056 A1)** (hereinafter “Allen”).

10. **With respect to claims 1 and 5:** Allen teaches:

a. having a rating subject such as a rating subject business enterprise input predetermined response information into primary survey items of a predetermined environment rating distributed via a network, and return said response information to a rating evaluator; having said evaluator perform a rating evaluation on the basis of said response results and a reference rating value, and transmit an obtained rating to said subject via said network. (Allen: paragraphs 23-28 and 39 – information is collected, rated and indexed by an administrator; WWW, and data transfer networks like LAN, WAN, wireless network or intranet used)

b. having said evaluator distribute secondary survey items to said subject, perform a primary interview survey, and conduct an investigation through data processing on the basis of predetermined responses thereto; (Allen: paragraphs 39-41 – additional information is gathered; information may be gathered using a webcrawler)

- c. providing a fixed time period after said primary interview survey, performing a secondary interview survey separately with a management zone and a site representative, and obtaining predetermined response information. (Allen: paragraph 47 – “this process may be repeated at predetermined intervals, such as, for example, once per week or once per day.”)
11. **With respect to claim 2:** Allen teaches wherein said secondary survey items are constituted by reconfiguring a part or all of said primary survey items in an interview survey format. (Allen: paragraphs 65 – rater answers the questions and enters the answers in the computer program)
12. **With respect to claim 3:** Allen teaches wherein said evaluator obtains direct response information from said subject by double-checking said primary survey items and confirming with said subject said responses to said secondary survey items during said primary interview survey. (Allen: paragraphs 23-28, 39-46 and 60-63 – questionnaires sent out and collected; information saved in files and database)
13. **With respect to claim 4:** Allen teaches wherein said evaluator performs said rating evaluation on the basis of numerical value results, which are obtained by subjecting said response results to digitization through data processing using a predetermined point evaluation method, and said reference rating value. (Allen: paragraphs 48-53 – numerical scores are assigned and used to rate)
14. **With respect to claim 6:** Allen teaches further comprising means for subjecting said response results to digitization through data processing using a

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rating data processing unit in a database server of said evaluator. (Allen: paragraphs 46-53 and 60-63 – rating information available on the WWW)

CONCLUSION

15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Heidi Riviere whose telephone number is 571-270-1831. The examiner can normally be reached on Monday-Friday 9:00am-5:00pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Janice Mooneyham can be reached on 571-272-6805. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Tan Dean D. Nguyen/
Primary Examiner, Art Unit 3689
January 31, 2009